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PATRICK E. DUFFY, CLERK

IN THE UNITED STATES DISTRICT COURT ^{BY} _____
DEPUTY CLERK

FOR THE DISTRICT OF MONTANA

BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLIFFORD G. BIRDINGROUND,

Defendant.

Cause No. CR-02-49-BLG-RFC

ORDER

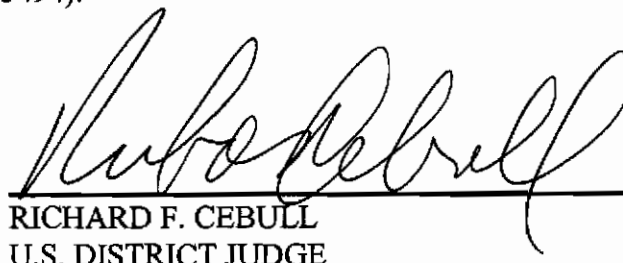
In the January 30, 2006 Order Denying Defendant's Motion for Stay of Sentence Pending Appeal, this Court cited a footnote in the Ninth Circuit opinion *United States v. Guerrero-Velasquez*, stating "on appellate review, a sentence within the guideline is presumptively reasonable." 2006 WL 133494, 1 n.1 (January 19, 2006). Since the entry of the January 30, 2006 Order, the Ninth Circuit has withdrawn that footnote in an amended opinion. *United States v. Guerrero-Velasquez*, 2006 WL 278911, 1 (February 7, 2006).

Accordingly, **IT IS HEREBY ORDERED** that this Court's Order Denying Defendant's Motion for Stay of Sentence Pending Appeal is also amended. The Order, filed January 30, 2006 is amended by the deletion of the following sentence on page 2: "Moreover, the Ninth Circuit Court of Appeals has recently held in *US v. Guerrero-Velasquez*, in pertinent part: "We also note

that, on appellate review, a sentence suggested by the guidelines is presumptively reasonable.”

(9th Circuit Decision 05-30066, 2006 WL 133494).”

DATED this 10th day of February, 2006.


RICHARD F. CEBULL
U.S. DISTRICT JUDGE

CERTIFICATE OF MAILING

DATE: 2/10/06

BY: _____

I hereby certify that a copy of
this Order was mailed to:

Carl Rostad

Paul Matt

Penelope Strong

USM

Probation